

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

GEORGE HUERTA, an individual, on  
behalf of himself and all others similarly  
situated and as a representative plaintiff,

Plaintiff,

v.

CSI ELECTRICAL CONTRACTORS,  
INC.,

Defendant.

Case No. 18-cv-06761-BLF

**ORDER DISMISSING PLAINTIFF'S  
UCL CLAIM WITHOUT PREJUDICE**

At the Court's request, the parties have submitted briefing on the effect of *Sonner v. Premier Nutrition Corp.*, 971 F.3d 834 (9th Cir. 2020), on Plaintiff's Fourth Cause of Action for violation of California's Unfair Competition Law ("UCL"), California Business & Professions Code § 17200 *et seq.* In *Sonner*, the Ninth Circuit held that federal courts must apply equitable principles deriving from federal common law to claims for equitable relief brought under state law, including "the principle precluding courts from awarding equitable relief when an adequate legal remedy exists[.]" *Sonner*, 971 F.3d at 842. Under those federal principles, a plaintiff "must establish that she lacks an adequate remedy at law before securing equitable restitution for past harm under the UCL." *Id.* at 844. In *Guzman*, the Ninth Circuit clarified that a district court lacks "equitable jurisdiction" to hear a plaintiff's UCL claim if the plaintiff had an adequate legal remedy, even when the plaintiff was time-barred from pursuing that legal remedy. *Guzman v. Polaris Indus. Inc.*, 49 F.4th 1308, 1313 (9th Cir. 2022).

1 In the present case, the parties agree that this Court lacks equitable jurisdiction over  
2 Plaintiff's UCL claim. The Court is of the same view. Plaintiff's UCL claim is grounded in  
3 Defendant's alleged violation of the California Labor Code. Plaintiff has an adequate remedy at  
4 law for those alleged violations, that is, claims brought directly under the California Labor Code,  
5 which are asserted in this lawsuit.

6 The parties disagree as to how the Court should proceed regarding Plaintiff's UCL claim.  
7 Plaintiff requests that the Court either order a partial remand of the UCL claim or dismiss the UCL  
8 claim without prejudice, stating that "Plaintiff does not care" which of those options the Court  
9 chooses.<sup>1</sup> Pl.'s Reply at 2, ECF 229. Defendant argues that a partial remand of the UCL claim  
10 would not be appropriate, and that the Court's only course is to dismiss the UCL claim without  
11 prejudice. *See* Def.'s Response at 1, ECF 227. However, Defendant suggests that the Court defer  
12 dismissing the UCL claim until after trial or termination of the action, so that Plaintiff does not  
13 "unnecessarily and wastefully fil[e] a duplicative action in state court[.]" *Id.* at 3.

14 The Court first discusses its authority to dismiss the UCL claim without prejudice, then its  
15 authority to grant a partial remand of the UCL claim, and finally Defendant's suggestion that it  
16 defer acting on the UCL claim until the end of the case.

17 This Court clearly has authority to dismiss the UCL claim without prejudice to Plaintiff's  
18 refiling the same claim in state court. In *Guzman*, as here, both legal and equitable claims were  
19 asserted. *See Guzman*, 49 F.4th at 1310. The Ninth Circuit held that the district court erred in  
20 granting summary judgment for the defendant on the UCL claim asserted by the plaintiff,  
21 Albright, and that the district court should have dismissed the UCL claim without prejudice to  
22 refiling the same claim in state court. *Id.* at 1314. The *Guzman* court observed that "a California  
23 court might allow Albright to pursue his UCL claim." *Id.* at 1315.

24 It is unclear whether the Court has authority to order a partial remand of the UCL claim for  
25 lack of equitable jurisdiction. "The remand statute, 28 U.S.C. § 1447(c), requires a district court

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26  
27 <sup>1</sup> Plaintiff appears to have abandoned his suggestion that the Court remand the entire case based on  
28 its lack of equitable jurisdiction over the UCL claim. A district court cannot remand the entire  
case where it has subject matter jurisdiction over some claims. *See Lee v. Am. Nat'l Ins. Co.*, 260  
F.3d 997, 1006 (9th Cir. 2001).

1 to remand a removed ‘case’ to state court ‘[i]f at any time before final judgment it appears that the  
2 district court lacks subject matter jurisdiction.’” *Lee v. Am. Nat’l Ins. Co.*, 260 F.3d 997, 1006  
3 (9th Cir. 2001) (quoting 28 U.S.C. § 1447(c)). It is not apparent that § 1447(c)’s direction to  
4 remand a “case” encompasses remand of a single claim within a case, and that question has not  
5 been decided by the Supreme Court or the Ninth Circuit. In *Lee*, the Ninth Circuit indicated that  
6 the Supreme Court had “left open the possibility that § 1447(c) might permit a district court to  
7 retain claims over which the court has subject matter jurisdiction, but remand those over which it  
8 lacks jurisdiction.” *Id.* at 1007 n.8. The Ninth Circuit suggested that “[i]n some cases, a plaintiff  
9 might forfeit an otherwise viable state-law claim . . . a result which might militate in favor of  
10 remanding, rather than dismissing, nonjusticiable state-law claims.” *Id.* at 1006-07. Because the  
11 plaintiff had sought remand of the entire case, and had not sought a partial remand, the *Lee* court  
12 had “no occasion in this case to decide whether such a partial remand would be appropriate.” *Id.*  
13 at 1007 & n.8.

14 Even assuming that § 1447(c) permits remand of a single claim for lack of subject matter  
15 jurisdiction, “[e]quitable jurisdiction is distinct from subject matter jurisdiction[.]” *Guzman*, 49  
16 F.4th at 1314. “Subject matter jurisdiction regards whether the claim falls within the limited  
17 jurisdiction conferred on the federal courts by Congress, while equitable jurisdiction regards  
18 whether consistently with the principles governing equitable relief the court may exercise its  
19 remedial powers.” *Id.* (internal quotation marks and citation omitted).

20 Some district courts have ordered a partial remand of UCL claims based on lack of  
21 equitable jurisdiction where it appeared the plaintiff might forfeit the UCL claims if they were  
22 dismissed without prejudice. *See, e.g., California v. N. Tr. Corp.*, No. CV 12-01813 DMG  
23 (FMOx), 2013 WL 1561460, at \*6 (C.D. Cal. Apr. 10, 2013) (“The Court concludes that, here,  
24 Plaintiff does face a threat of being forced to forfeit its claims, and therefore partial remand is  
25 appropriate.”). In *Kim*, the district court expressed skepticism whether § 1447(c) permits partial  
26 remand of equitable state law claims, and found that even if it does, partial remand was not  
27 warranted in the case before it because the plaintiff had not shown that her state law claims were  
28 in danger of being forfeited. *See Kim v. Walmart, Inc.*, No. 2:22-CV-08380-SB-PVC, 2023 WL

196919, at \*3 (C.D. Cal. Jan. 13, 2023) (“Plaintiff has not demonstrated that her equitable claims are time-barred or otherwise unavailable in state court.”).

In the present case, Plaintiff has not argued that his UCL claim would be forfeited absent remand. To the contrary, Plaintiff has stated expressly that he does not care whether the Court orders partial remand of his UCL claim or dismisses it without prejudice. Given the lack of clear authority permitting partial remand of Plaintiff’s UCL claim, and Plaintiff’s lack of preference, the Court finds it most appropriate to dismiss the UCL claim without prejudice.


The Court sees no reason to wait until the end of this litigation before dismissing Plaintiff’s UCL claim. None of the cases cited by the parties requires such a delay. In *Johnson*, cited by Defendant in support of its suggestion that the Court wait to dismiss the UCL claim, the purpose of the delay was to protect the plaintiffs. See *Johnson v. Nissan N. Am., Inc.*, No. 3:17-CV-00517-WHO, 2022 WL 2869528, at \*17 (N.D. Cal. July 21, 2022) (“I recognize that some courts have dismissed equitable claims at earlier junctions in the case, but that risks depriving the plaintiffs of remedies to which they may be entitled.”). *Johnson* provides no support for Defendant’s assertion that delaying dismissal of the UCL claim is necessary to prevent Plaintiff from filing an unnecessary, wasteful, and duplicative action in state court.

Accordingly, the Court HEREBY ORDERS as follows:

- (1) Plaintiff’s Fifth Cause of Action, brought under California’s UCL, is DISMISSED WITHOUT PREJUDICE for lack of equitable jurisdiction; and
- (2) The Order to Show Cause (ECF 224) is DISCHARGED.

**IT IS SO ORDERED.**

Dated: July 23, 2025

  
BETH LABSON FREEMAN  
United States District Judge